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8 Attorney for Plaintiff
9 KENNETH GOMES

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION

13 KENNETH GOMES,

14 Plaintiff,

15 v.

16 KILOLO KIJAKAZI, Acting
17 Commissioner of Social Security,

18 Defendant.

Case No. 1:23-cv-00478-SKO

STIPULATION AND UNOPPOSED
MOTION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
ORDER

(Doc. 14)

19
20 IT IS HEREBY STIPULATED by and between the parties through their
21 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
22 attorney fees and expenses in the amount of \$1,934.14, under the Equal Access to
23 Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This
24 amount represents compensation for all legal services rendered on behalf of Plaintiff by
25 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),
26 1920.
27
28

1 After the Court issues an order for EAJA fees to Plaintiff, the government will
2 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
3 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
4 to honor the assignment will depend on whether the fees are subject to any offset
5 allowed under the United States Department of the Treasury's Offset Program. After
6 the order for EAJA fees is entered, the government will determine whether they are
7 subject to any offset.

8 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
9 determines that Plaintiff does not owe a federal debt, then the government shall cause
10 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
11 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

12 This stipulation constitutes a compromise settlement of Plaintiff's request for
13 EAJA attorney fees and does not constitute an admission of liability on the part of
14 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
15 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
16 Francesco Benavides, including the Law Offices of Francesco Benavides, may have
17 relating to EAJA attorney fees in connection with this action.

18 This award is without prejudice to the rights of Francesco Benavides to seek
19 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
20 clause provisions of the EAJA.

21
22 Respectfully submitted,

23
24 Dated: June 5, 2023

25 Law Offices of Francesco Benavides

26 By: /s/ Francesco Benavides
27 FRANCESCO P. BENAVIDES
28 Attorney for Plaintiff

Dated: June 5, 2023

PHILLIP A. TALBERT
United States Attorney
MATTHEW W. PILE
Associate General Counsel
Social Security Administration

By: Heidi L. Triesch*
HEIDI L. TRIESCH
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Permission to use electronic signature
obtained via email on June 5, 2023).

ORDER

Based upon the parties' Stipulation and Unopposed Motion for the Award and Payment of Equal Access to Justice Act Fees and Expenses (Doc. 14), **IT IS ORDERED** that fees and expenses in the amount of \$1,934.14 as authorized by 28 U.S.C. § 2412, and no costs under 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: June 6, 2023

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE